

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

TERRY SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 3:04-CV-128
	)	(VARLAN/GUYTON)
BAYER CORPORATION LONG TERM	)	
DISABILITY PLAN and	)	
BAYER CORPORATION,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court on the Report and Recommendation filed by United States Magistrate Judge H. Bruce Guyton on December 2, 2008 [Doc. 49] on plaintiffs' Revised Motion for Attorney's Fees [Doc. 44]. There have been no timely objections to the Report and Recommendation, and sufficient time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

After careful review of the matter, the Court is in agreement with Magistrate Judge Guyton's recommendations, which the Court adopts and incorporates into its ruling. The Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 49] and hereby **GRANTS** plaintiffs' Revised Motion for Attorney's Fees [Doc. 44] to the extent that the plaintiff be awarded fees as to the reasonable work of plaintiff's counsel for 41.6 hours at

\$287.50 per hour for attorney work, and for 16.0 hours at \$97.50 for paralegal work, for a total award as to the appeal of this matter of \$13,520.00.

IT IS SO ORDERED.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE